

EXHIBIT 8B

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1 Q When did she work there?
 2 A She left probably 2006, Johnson, Kim Gunn
 3 Johnson. She's probably on there.
 4 Q And she was a scheduler?
 5 A Yes. She did scheduling. She would also --
 6 there was no way -- back to the eTOTALS, there was no
 7 ever official training, but if you had questions, she
 8 was the person to ask.
 9 Q Was she a manager?
 10 A No, team lead.
 11 Q She was a team lead. Was she your team lead?
 12 A No.
 13 Q So when did Ms. Johnson tell you not to record
 14 the time you spend logging into the machine and logging
 15 into tools in TOTALS?
 16 A It would have been when we first, 2003, when
 17 we first started using TOTALS.
 18 Q And how did the conversation come up? What do
 19 you recall about it?
 20 A Just in telling us how to record time, showing
 21 us how to record time in TOTALS.
 22 Q I thought you said you figured TOTALS out
 23 yourself.
 24 A Well, they show you how to log in, and they
 25 show you the basics. You know, other than -- they show

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1 you other than, you know, additional hours, here's how
 2 you record additional hours, but they don't tell you
 3 how to -- you know, meal breaks, lunch breaks,
 4 illnesses. They just show you the basics. If you
 5 change your days, you have to change it in TOTALS.
 6 They don't tell you any of that. If you change your
 7 hours, they don't tell you.
 8 Q So were other people present when Ms. Gunn,
 9 Ms. Gunn Johnson, I guess, told you not to record your
 10 time in TOTALS?
 11 A There was probably three or four people there,
 12 all the new hires for that day.
 13 Q Who were those other people that were there?
 14 A I don't remember who was hired my time.
 15 Q And how did the subject of recording log-in
 16 time come up?
 17 A Just in showing, you know, this is how you put
 18 your start time, stop time.
 19 Q And what specifically did Ms. Gunn Johnson
 20 say?
 21 A That, you know, whenever your shift starts,
 22 that's the times you put on TOTAL. If you come in
 23 early, you don't put that on there.
 24 Q Was that a question you had about whether or
 25 not log in times should be recorded?

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1 A No.
 2 Q Was it a question somebody else had?
 3 A I don't recall it being a question. I think
 4 it was just more of a statement.
 5 Q Aside from Ms. Gunn Johnson, did anyone tell
 6 you not to record log-in time into TOTALS?
 7 A I mean, it's been reported. I don't know
 8 anybody specific or times, but it's the general -- the
 9 general feeling is what we're told, the general
 10 attitude.
 11 Q Have you ever seen any sort of statement in
 12 writing that you should not record log-in time in
 13 TOTALS?
 14 MR. LANGE LAND: You mean, aside from
 15 this?
 16 A (By the Witness) No. Other than what we're
 17 told here, that's the only --
 18 Q Okay. Would you please turn back to Exhibit
 19 5? And again, this is the Lambousis e-mail. Can you
 20 point out to me where Mr. Lambousis says don't record
 21 log-in time in TOTALS?
 22 A I mean, it doesn't state that specifically.
 23 Q So can you tell me where in Exhibit 5 you
 24 understand Mr. Lambousis to be saying don't record
 25 log-in time in TOTALS?

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1 A I mean, it doesn't -- how can we say this? I
 2 mean, it's mentioning start times. So that's when
 3 you -- that's when you start, is when you officially
 4 start getting paid. So they're saying they want all
 5 this stuff ready to go prior to your start time.
 6 And we're not -- we're told -- it's not here,
 7 but we're told don't log in 15, 20 minutes early
 8 because it throws the numbers off; log in no more than
 9 five minutes prior. I mean, I don't have anything that
 10 says that in writing, but that's what we're told to do.
 11 Q So --
 12 A That's where this came about, is because
 13 people were logging in 15, 20 minutes early.
 14 Q In Exhibit 5, Mr. Lambousis doesn't mention
 15 TOTALS, does he?
 16 A No.
 17 Q And in Exhibit 5, Mr. Lambousis doesn't talk
 18 about recording time, does he?
 19 A No.
 20 THE VIDEOGRAPHER: Five minutes till
 21 the tape change.
 22 MR. ROSSMAN: Okay.
 23 BY MR. ROSSMAN:
 24 Q So you would agree with me then you've never
 25 seen in writing any statement that you should not

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1 record log-in times in TOTALS?
 2 MR. LANGE LAND: Objection, objection.
 3 You can answer.
 4 A (By the Witness) I mean, it's -- I don't know
 5 if it's ever in writing or not. It could have been an
 6 e-mail. I mean, it's -- it's been reinforced. So I
 7 would assume it's been in e-mail. That's how they
 8 reinforce everything.
 9 Q But you don't recall any e-mails you may have
 10 seen to that effect?
 11 MR. LANGE LAND: Objection.
 12 A (By the Witness) I mean, I recall receiving
 13 something.
 14 Q Who sent them?
 15 A I don't know who sent them. It gets forwarded
 16 by team leads.
 17 Q When did you receive them?
 18 A I mean, it's been multiple times.
 19 Q What year?
 20 A I mean, every year.
 21 Q How many have you received?
 22 A I mean, there's been at least, let's say,
 23 three or four.
 24 Q But you don't recall who sent them, and you
 25 don't recall the date?

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1 A No.
 2 MR. LANGE LAND: Objection. He
 3 testified it was team leads.
 4 MR. ROSSMAN: He just said no.
 5 A (By the Witness) I mean, it comes -- it gets
 6 forwarded by the team lead, and it just says -- you
 7 know, he just puts in there, you know, please adhere or
 8 thanks, and I read the message, and, you know, I don't
 9 look at the path of the e-mail.
 10 Q Which team lead sent you the e-mails?
 11 A They would be coming from Fred Nutter. Now,
 12 other team leads -- primarily from him. Other team
 13 leads do send out information to the entire floor. It
 14 kind of depends on who -- if it's specific to my group,
 15 then it comes from him. If it's specific to the
 16 platform, it would come from another team lead.
 17 Q So your testimony is that Mr. Nutter has sent
 18 you e-mails saying do not log -- do not record log-in
 19 time into TOTALS?
 20 MR. LANGE LAND: Objection.
 21 A (By the Witness) He's one of them.
 22 THE VIDEOGRAPHER: Two minutes.
 23 BY MR. ROSSMAN:
 24 Q And your testimony is you don't recall who the
 25 originator of those e-mails were, correct?

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1 MR. LANGE LAND: Objection.
 2 A (By the Witness) I don't know who the
 3 originator -- I didn't check to see who the originator
 4 was.
 5 Q Do you have any of these e-mails?
 6 A No.
 7 MR. ROSSMAN: Why don't we go ahead and
 8 change the tape.
 9 THE VIDEOGRAPHER: Off video.
 10 (VIDEO CAMERA OFF.)
 11 (The luncheon recess was taken from
 12 12:34 to 1:36 p.m.)
 13 (VIDEO CAMERA ON.)
 14 THE VIDEOGRAPHER: On video.
 15 BY MR. ROSSMAN:
 16 Q Mr. Liles, you're on the ninth floor, I
 17 believe you testified?
 18 A Yes.
 19 Q And are you in a cubicle or an office?
 20 A Cubicle.
 21 Q Can you -- how high are the partitions? Can
 22 you see over them when you're sitting down?
 23 A Yeah, in front you can, yes.
 24 Q Who sits around you currently?
 25 A Like names?

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1 Q Sure.
 2 A Scott Parker sits behind me. They just moved
 3 a guy over to the left -- I mean, to the right. It
 4 depends on which way you're facing. I'm facing -- you
 5 know, the wall, basically, is here. So I come in here.
 6 So over on the right is -- they just moved in a guy,
 7 Ronnie Bowen. The guy in front of me is James Young.
 8 Q Where does your supervisor sit?
 9 A The team lead is down at the end of the row.
 10 He's one, two, three, four cubicles down.
 11 Q So can you see him from where you sit?
 12 A Not if he's sitting down, no.
 13 Q And then how about your manager?
 14 A She has an office.
 15 Q Can you see her from where you sit?
 16 A No.
 17 Q Have you, since 2005, have you changed
 18 cubicles?
 19 A Yes.
 20 Q How many times?
 21 A Twice.
 22 Q In your last cubicle, could you see your team
 23 lead?
 24 A Yes.
 25 Q Where was your team lead?

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1 A Right behind me.
 2 Q Oh, really. How long – when did you switch
 3 to your current cube?
 4 A The same time I went to days, so two years
 5 ago.
 6 Q And how long were you in the cubicle next to
 7 the team lead?
 8 A Approximately a year and a half.
 9 Q Where was that cube in relation to where your
 10 manager has her office?
 11 A The previous cube?
 12 Q Correct. Well, was Jones your manager at that
 13 time?
 14 A No.
 15 Q Okay. So where was – where was your manager
 16 in the previous cube in relation to your cube?
 17 A I mean, she has an office in the corner. So
 18 kind of in the middle of the floor, I guess, is my
 19 cube.
 20 Q Could you see her from your previous cube?
 21 A Not – if she was in her office, I could see
 22 her walking the floor.
 23 Q And then your cube, I guess, before the one we
 24 were just talking about, the one next to your team
 25 lead, where was that – well, strike that. When were

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1 you in the cube prior to the cube next to your manager?
 2 Do you remember the dates?
 3 MR. LANGE LAND: Objection.
 4 A (By the Witness) Not specifically.
 5 Q Okay. When you were in that earlier cube,
 6 where did your team lead sit in relation to you?
 7 A I mean, previously where I was located, I had
 8 a team lead sit basically right behind me, and the
 9 manager was just around the corner.
 10 Q Okay. So your – not your current cube, but
 11 your previous cube, your team lead was right behind
 12 you, and the cube before that, your team lead was also
 13 right behind you?
 14 A No.
 15 MR. LANGE LAND: Objection. I'm sorry.
 16 Not to interrupt you, but if you want to
 17 make a clear record, I don't think this is
 18 clear at all.
 19 MR. ROSSMAN: Okay.
 20 BY MR. ROSSMAN:
 21 Q We'll call your current cube "cube one," the
 22 previous cube "cube two," and the cube before that
 23 "cube three." When you were in "cube three," where did
 24 your team lead sit?
 25 A Down at the end of the row.

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1 Q Could you see your team lead from that cube?
 2 A I was facing the opposite direction. I was
 3 facing forward. He was down – I was at the front of
 4 the row. He's down at the back. I'm facing forward.
 5 So if he walked by, yes; if he's at his desk, no,
 6 because I'm looking the opposite direction.
 7 Q Do you currently have a laptop or a desktop?
 8 A Desktop.
 9 Q Have you always had a laptop or a desktop?
 10 Which have you – strike that. Have you always had a
 11 desktop at IBM?
 12 A Yes.
 13 Q How many people are currently on the server
 14 team?
 15 A At IBM, I would guess about 80 to 90.
 16 Q Are they all at Riveredge?
 17 A Yes.
 18 Q Has that number fluctuated over time?
 19 A It's gotten bigger.
 20 Q Do you recall about how many people were on
 21 the server team in 2005?
 22 A Probably 40 to 50 IBM.
 23 Q The 80 to 90 that you mentioned that are
 24 currently on the team, are those all IBM?
 25 A Yes.

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1 Q And does the server team – is that a 24/7
 2 operation?
 3 A Yes.
 4 Q Do they run equal numbers of people throughout
 5 the day, or are there more at certain teams?
 6 A There's more peak hours, 8:00 to 5:00.
 7 Q Currently, about how many people do they run
 8 at peak hours?
 9 A I mean, the majority. It's a mix of IBM and
 10 contractors. So I don't know how many are one and how
 11 many are the other.
 12 Q I believe you testified you get an hour lunch;
 13 is that correct?
 14 A Yes.
 15 Q Is that lunch scheduled?
 16 A Yes.
 17 Q Have you ever had to work through lunch?
 18 A I have. It's scheduled in that you have a
 19 lunch window, and if for some reason, you can't make
 20 the lunch window – we have a sign-out board. So X
 21 number of people are available to be on lunch. So if
 22 your window comes up and there's a slot, then you can
 23 go to lunch. If not, you wait until there's an
 24 available slot.
 25 Q How long is the lunch window?

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1 A Well, it's -- your window starts four hours
 2 after you've been working.
 3 Q Have there -- has there ever been a shift
 4 since 2005 where you did not get a lunch at all?
 5 A No. Well, I take that back. Yes.
 6 Q When was that?
 7 A It just -- it depends. If they're
 8 shorthanded, they will tell us to not take a lunch and
 9 mark the overtime as -- mark the lunch as overtime.
 10 Q When you -- the times when you've not gotten a
 11 lunch, were you fully compensated for all the time that
 12 you worked?
 13 A Yes.
 14 Q Now, how about breaks; do you get breaks
 15 throughout the day?
 16 A Two 15-minute breaks.
 17 Q And are those scheduled as well?
 18 A No.
 19 Q Do you always get your breaks?
 20 A Yes.
 21 Q And those are paid breaks, I take it, those
 22 15-minute breaks?
 23 A Yes.
 24 Q Does your team lead work the same hours as
 25 you?

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1 A No.
 2 Q What hours does your team lead work?
 3 A He's like 9:00 to 6:00, so 15-minute
 4 difference.
 5 Q How about your manager; does she work the same
 6 hours as you?
 7 A No.
 8 Q What hours does she work?
 9 A Typically, 7:00 to 4:00.
 10 Q Are you ever late for work?
 11 A On occasion.
 12 Q When you're late, do you ever record that in
 13 TOTALS?
 14 A No. We don't record it in TOTALS.
 15 Q Have you ever been disciplined for being late?
 16 A No.
 17 Q Have you ever been disciplined for not being
 18 logged into the phones at the start of your shift?
 19 MR. LANGELAND: Objection.
 20 You can answer.
 21 A (By the Witness) Define disciplined. I mean,
 22 I -- we've been talked to, I mean. They talk to you,
 23 no like action, but you do get talked to sometimes.
 24 Q Have you ever -- strike that. Are you allowed
 25 to make personal calls during the day?

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1 A Not from your phone and only on your lunch or
 2 break.
 3 Q So not -- you can't make them from your work
 4 phone?
 5 A You're not supposed to.
 6 Q You're not supposed to?
 7 A Right.
 8 Q Have you ever done it?
 9 A On occasion.
 10 MR. LANGELAND: Objection.
 11 BY MR. ROSSMAN:
 12 Q On the occasions where you did make a call
 13 from your work phone, is there any way for your team
 14 lead or a manager to know whether you were making a
 15 business call or a personal call?
 16 A Yes.
 17 Q How?
 18 A They monitor all the calls, outgoing. I mean,
 19 they would -- I guess they could look at the number.
 20 They see all the numbers.
 21 Q Okay. So they could look at the numbers. Is
 22 that different from the monitoring that you mentioned?
 23 A I mean, it's all monitored. I mean, the only
 24 way they would know is if they knew that was your
 25 number. I mean, every outbound call, every inbound

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1 call is tracked regardless, personal, business.
 2 Q Have you ever seen any other employee's TOTALS
 3 information?
 4 A No.
 5 Q So never seen anyone else's time card?
 6 A I mean, I've helped them put stuff in there.
 7 Q So you've showed them how to use TOTALS?
 8 A Told them how to use it, yes, if they had a
 9 question.
 10 Q And how often have you done that?
 11 A I mean, several times.
 12 Q Okay. Let me be more clear. How often have
 13 you actually seen what another employee is entering
 14 into TOTALS?
 15 A I mean, I don't see it as in looking
 16 specifically at it to see what their hours are or what
 17 their days. It's more of, you know, how do I change
 18 this so -- I'm behind them, but I'm not like, you know,
 19 reading, other than looking for telling them where to
 20 click at and make sure that they're clicking on the
 21 right entry.
 22 Q So it's fair to say you've given employees
 23 advice on how to use TOTALS?
 24 A Yes.
 25 Q But you've not entered hours for them?

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1 A I haven't entered hours, no.
 2 Q And you've not reviewed other employee's time
 3 cards?
 4 A No.
 5 Q So you don't know what other employees enter
 6 into TOTALS in terms of their hours?
 7 MR. Langeland: Objection.
 8 A (By the Witness) No.
 9 Q Have you ever seen other employee's paychecks?
 10 A No.
 11 Q So you don't know, I take it, whether or not
 12 other employees have been paid for all of their
 13 overtime?
 14 MR. Langeland: Objection.
 15 A (By the Witness) No. I don't know.
 16 Q Aside from the server team, are you aware of
 17 any other -- well, setting aside the server team, do
 18 you have knowledge of whether any other call group at
 19 IBM, what their rules are -- let me start over. It's a
 20 bad question.
 21 We've discussed the server team. Do you have
 22 knowledge of what the policies are in any other call
 23 group in terms of logging onto tools before or after
 24 the start of a shift?
 25 A No.

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1 Q Do you know what IBM business unit you're part
 2 of?
 3 A I know it's Division 48. I don't know if
 4 that's what you're looking for.
 5 Q What is Division 48?
 6 A That's just a number. They call it -- or I
 7 guess maybe ISC.
 8 Q Besides the server team, are there other teams
 9 on the ninth floor of Riveredge?
 10 A Yes.
 11 Q What teams are those?
 12 A I believe the CRU is there, part of the CRU,
 13 customer replacement unit team, and then there's some
 14 people that I don't know what they do, but they're part
 15 of management.
 16 Q Do you know of any other call teams at
 17 Riveredge on the other floors?
 18 A Yes.
 19 Q What teams are those?
 20 A I mean, they have printer support, SSRs for
 21 desktop, I guess, entitlement. Part of entitlement is
 22 in Atlanta. There's NAMC. There's other people
 23 working there.
 24 Q But you've never worked on any of those other
 25 teams?

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1 A No.
 2 Q Could you turn back to Exhibit 5 for a second,
 3 the Lambousis e-mail? Did this e-mail come directly to
 4 you, or did it come through a team lead or somebody
 5 else?
 6 A This would have come directly to.
 7 MR. ROSSMAN: Would you mark that one
 8 for me, please?
 9 (Defendant's Exhibit No. 6 was marked.)
 10 BY MR. ROSSMAN:
 11 Q Now I've just handed you a document that's
 12 been marked as Exhibit 6. It's an e-mail, I believe,
 13 dated November 12, 2007; is that correct?
 14 A Yes.
 15 Q Did you send this e-mail?
 16 A Yes, I did.
 17 Q Had TOTALS changed in some way -- well, strike
 18 that. What prompted you to send this e-mail?
 19 A Because Juanita, at the bottom, is sending out
 20 every week to sign and submit your time cards so she
 21 can approve it, and that's not -- previously, we never
 22 had to do that.
 23 Q So previously, you submitted a time card only
 24 if you worked overtime?
 25 A Yes. TOTALS would automatically approve it.

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1 Q Now, the practice that, I guess, is reflected
 2 in this e-mail of submitting a time card every week, is
 3 that the current practice?
 4 A Yes.
 5 Q So just so I understand this, prior to
 6 November 12th, management's expectation was if you
 7 worked overtime, you would submit a time card?
 8 A Well, I wouldn't go by that date. That's the
 9 date I sent that, but this started before that.
 10 Q Okay. So sometime around --
 11 A Then, eventually, I asked a question.
 12 Q Okay. So just to be clear, sometime around
 13 November of 2007?
 14 A I mean, probably it had been going on, let's
 15 say, three or four months prior to that.
 16 Q Three or four -- okay. Well, what prompted
 17 you at this point then to send the e-mail?
 18 A Because if you don't, you will get this
 19 e-mail. So it was finally, you know, what's changed --
 20 you know, I'm a curious person. So I was like, okay,
 21 what's changed, has something changed that I'm not
 22 aware of. So I decided to ask.
 23 Q Okay. So at some -- you know, a couple of
 24 months prior to this e-mail before that time. So this
 25 e-mail came in November. So say up until the summer of

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1 2007, management's expectation was if you worked
 2 overtime, you'll submit a TOTALS time card?
 3 MR. LANGELAND: Objection.
 4 A (By the Witness) Yes.
 5 Q And then going forward, you were expected to
 6 submit a TOTALS time card regardless of whether or not
 7 you worked overtime?
 8 A Yes.
 9 MR. LANGELAND: Objection. His
 10 testimony was not that –
 11 MR. ROSSMAN: I just asked him a
 12 question, and he answered the question.
 13 MR. LANGELAND: That's not what his
 14 testimony was.
 15 MR. ROSSMAN: I didn't characterize his
 16 testimony. I asked him a question.
 17 MR. LANGELAND: You did. You said
 18 what's management's expectation. So you
 19 asked him what management's expectation was,
 20 and he has already testified management's
 21 expectation was you don't record the
 22 preshift –
 23 MR. ROSSMAN: Please don't testify for
 24 your client.
 25 MR. LANGELAND: I'm not testifying for

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1 him. That's what his testimony was. You
 2 don't record the preshift overtime.
 3 BY MR. ROSSMAN:
 4 Q Prior to, say, July of 2007, your
 5 understanding of management's expectation was that you
 6 would submit a TOTALS time card if you worked overtime,
 7 correct?
 8 A Yes.
 9 Q Your understanding of management's expectation
 10 prior to July of 2007 is you would submit a TOTALS time
 11 card regardless of whether or not you worked overtime?
 12 A I mean, I don't know what their expectation
 13 is, but prior to whenever this started, you never had
 14 to -- if you just had straight 40 hours, you never had
 15 to mess with TOTALS.
 16 Q Okay.
 17 A Now even if you have straight 40 hours, you
 18 still have to go in there, submit it. TOTALS -- as
 19 soon as you submit it, TOTALS will say approved or it
 20 will say submitted, no further action. I asked -- the
 21 reply back, which we don't have here, was that they're
 22 auditing -- they want you to submit it so they can
 23 audit it. Whether they could go in and audit prior to
 24 that, I have no knowledge of that.
 25 MR. ROSSMAN: Can you mark that one,

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1 please?
 2 (Defendant's Exhibit No. 7 was marked.)
 3 BY MR. ROSSMAN:
 4 Q I just handed you a document that's been
 5 marked Exhibit 7. It's an e-mail dated February 21st,
 6 2008. Did you send this e-mail?
 7 A Yes.
 8 Q You're referring, I guess, in the fourth
 9 concern, if you will, you're referring to people
 10 sitting in AUX. What is AUX?
 11 A It's basically additional -- it's nonavailable
 12 time.
 13 Q And what was your concern with people in AUX?
 14 A That they're sitting there doing nothing when
 15 there's customers calling and they could take a call
 16 versus sitting there doing nothing.
 17 Q How did you know that your coworkers were
 18 sitting there doing nothing?
 19 A I could see it.
 20 Q Were there specific coworkers you were
 21 concerned about?
 22 A Yes.
 23 Q Who?
 24 A James Young, he's a contractor.
 25 Q Anyone else?

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1 A He's the one I see do it all the time. This
 2 was -- this was spawned basically because he had a call
 3 and wouldn't take it because he was sitting there, and
 4 that's just not right. That's not the way we do things
 5 there.
 6 Q Your first concern was with people talking and
 7 laughing in a loud tone?
 8 A Yes.
 9 Q Were there specific people you had a concern
 10 with with regard to that?
 11 A Just people on the row, you know, when they're
 12 not on a call. Maybe someone comes down the row, wants
 13 to talk to them and they're telling jokes in a manner
 14 that your customer hears them or you have a hard time
 15 hearing your customer.
 16 Q Were there any specific individuals, though,
 17 that you were referring to with paragraph 1?
 18 A There would have been, yes.
 19 Q Who is that?
 20 A There's Jacqueline Rogers, and I think this
 21 one came up. There was a guy talking -- I don't know
 22 who was talking to Joe McCarthy, but they were getting
 23 kind of loud.
 24 Q How about your second concern? Are there
 25 specific individuals you had in mind?

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1 A It's a lot of people.
 2 Q Who?
 3 A I don't -- I mean, Rodney Kelly would be one
 4 name. Ronnie Bowen. There's the usual -- we call it
 5 the usual offenders, people that usually will do that.
 6 Q Who are the usual offenders? The people you
 7 just mentioned or others?
 8 A The people I mentioned.
 9 Q Then how about your third concern; were there
 10 specific people you had in mind?
 11 A Same previous offenders, Rodney Kelly, Ronnie
 12 Bowen. Let's see. There's some new guys the past
 13 couple of years. I'm trying to think of their names.
 14 Q So what is DSA?
 15 A It's Dynamic System Analysis.
 16 Q And, I mean, what exactly is the nature of
 17 your concern here?
 18 A That it's -- DSA, you use to basically capture
 19 a screen shot -- not a screen shot but, in a sense, a
 20 screen shot of the system configuration, show you what
 21 they have in it, how things are set up on the hardware
 22 level.
 23 My concern there was people telling them to do
 24 it when there wasn't a need for them to do it, and
 25 you're just wasting their time. It gets them off the

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1 phone so you don't have to deal with them anymore.
 2 Q What does that mean, so they do not have to
 3 dispatch the call? What are you referring to there?
 4 A So they don't have to -- I mean, they know --
 5 they know, based on their talking to the customer that
 6 it's going to require a technician to come out there
 7 and fix the problem. So they will give them something
 8 to do to buy their time and then say, do this, call me
 9 back, and then when they call them back, it goes back
 10 to the second thing there where they don't reply back.
 11 So then it becomes my -- then I have to dispatch the
 12 call myself.
 13 Q With your fourth concern, the AUX concern,
 14 what was the -- I'm sorry. You said that was James
 15 Young?
 16 A James Young, yes.
 17 Q What was Mr. Young doing during that 15 or 20
 18 minutes?
 19 A Nothing.
 20 Q Surfing the Internet or something?
 21 A I mean, I don't know what he was doing on his
 22 computer other than -- but he was just sitting there.
 23 I mean, he was sitting there. He may have been
 24 surfing. I don't know. But he was probably refreshing
 25 the screen every couple of minutes to see if an order

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1 has come through or not.
 2 Q Would the customer have been on the line with
 3 him?
 4 A No.
 5 Q Did you get a response from Mr. Nutter to your
 6 e-mail?
 7 A I don't believe I -- not directly to me, no.
 8 On this one, I don't recall if I -- that I got anything
 9 or he ever did anything.
 10 Q Did you raise other concerns with Mr. Nutter
 11 other than the concerns you raised in the February 21st
 12 e-mail?
 13 A No.
 14 Q Are there different AUX codes?
 15 A Yes.
 16 Q What are those AUX codes that you recall?
 17 A 1 is after-call time. So you just got off the
 18 customer call. You go to AUX-1 to document your call,
 19 order your parts. So it's customer related. 2 is
 20 training or available in the office doing other duties.
 21 3, let's see, is helping out another coworker. Hardly
 22 ever use 4. I forget what 4 is. 5 is breaks or lunch.
 23 6 is SSR, which is the field technician
 24 support, and 7 is like root cause, research, things of
 25 that nature. 8 is if you're calling back in SSR, field

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1 technician, if you have to call them back, you do an
 2 AUX-8; and AUX-9 is if you're calling a customer back
 3 or if you're working on a customer-related problem
 4 without the customer on the phone.
 5 Q Now, all these AUX codes, then they will block
 6 incoming calls?
 7 A Yes.
 8 Q Do you know if IBM tracks employee's AUX time?
 9 A Yes.
 10 Q How do you know that?
 11 A Because they used to give us reports. They
 12 don't do that anymore. But if you have excessive time,
 13 that will tell you.
 14 Q During what time period did you receive
 15 AUX-related reports?
 16 A It's been probably, let's say, since I've
 17 been -- well, actually, as an IBMer, we never received
 18 any. I received those as a contractor.
 19 Q Okay. And then I think the other thing you
 20 said was you would -- a manager might talk to you if
 21 you had excessive AUX time?
 22 A Yes.
 23 Q Have you personally ever been talked to?
 24 A Yes.
 25 Q On what occasions?

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1 A The only one time, it was — they had me
 2 doing — I used to work weekends, and I was the weekend
 3 vocal. They had some new guys. So I had to help out
 4 the new guys. So I had excessive AUX time, and so they
 5 asked about it, and it was a matter of, well, you had
 6 all these new guys, so I had to assist them and not
 7 take calls, and that was the end of it.
 8 Q Is there any expectation on the server team in
 9 terms of the number of calls you field in a day?
 10 A No.
 11 Q Is there any expectation in terms of how long
 12 the calls you field should last?
 13 A The call as far as with a customer?
 14 Q Yeah.
 15 A No.
 16 Q I may have asked you this already. But what
 17 does SDPO stand for?
 18 A Same day parts order.
 19 Q Now, AUX-1 is the after-call time?
 20 A Yes.
 21 Q And what sort of duties are included in
 22 after-call time?
 23 A You're finishing documenting your call,
 24 ordering your part and closing or pending your call.
 25 Q Is there any reason you couldn't log into PIMS

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1 after going into AUX-1?
 2 A Well, I mean, you're logged in prior to taking
 3 your calls, so —
 4 Q Do you need to log — do you need to order
 5 parts on every call?
 6 A Order, no.
 7 Q Do you need to use PIMS for every call?
 8 A 99 percent of them.
 9 Q Has anyone ever told you that you could not
 10 wait until after a call and log into PIMS?
 11 A You need it during a conversation.
 12 Q What do you need it during the conversation
 13 for?
 14 A To check parts' availability and make sure
 15 that the number they're giving you is a correct part.
 16 Q Do you know what a DOR report is?
 17 A No.
 18 Q Are you familiar with the term "schedule
 19 adherence"?
 20 A No.
 21 Q Are you familiar with the term "solve rate"?
 22 A Yes.
 23 Q What is solve rate?
 24 A That's a measurement of your CRUs and solves
 25 versus field dispatches.

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1 Q I'm sorry. What was the first term you used,
 2 CRUs?
 3 A CRUs. It's when you send out a part to a
 4 customer without a technician. They replace the part
 5 themselves and return it.
 6 Q And how does IBM — I mean, what's the purpose
 7 of solve rate — strike that. Is there an expectation?
 8 Are you giving an expectation about solve rate?
 9 A Yes.
 10 Q What is that expectation?
 11 A It changes every year. I think it's somewhere
 12 around 58 percent.
 13 Q So 58 percent you're expected to solve
 14 yourself?
 15 A Overall, yes.
 16 Q What is NSI?
 17 A That's your — I think it's like Net
 18 Satisfaction Index. It's your customer satisfaction
 19 surveys.
 20 Q And you're given an NSI rating?
 21 A We have — as a group, there's a matrix we
 22 have to achieve.
 23 Q Are you personally measured on NSI, or is it
 24 the group as a whole?
 25 A It's officially group overall.

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1 Q Are you familiar with the term "ACDN volume"?
 2 A Yes.
 3 Q What does that mean?
 4 A ACDN is how many times your phone rings.
 5 Q Are you familiar with IBM Business Conduct
 6 Guidelines?
 7 A Yes.
 8 Q What are those?
 9 A I mean, I don't have them specifically off the
 10 top of my head, but it's basically a guideline of how
 11 we're supposed to conduct ourselves.
 12 Q And you're required to be certified on those?
 13 A Every year.
 14 Q And you, in fact, have been certified on those
 15 every year?
 16 A Yes.
 17 Q Describe the certification process for me.
 18 A You receive a e-mail saying to do it, and they
 19 give you like a link to a Web page, and you — I don't
 20 know if you have to actually answer any questions, but
 21 it's just a presentation covering the guidelines, and
 22 then you certify at the end that you've taken it.
 23 Q So are you acknowledging — I mean, what are
 24 you acknowledging, that you've read them?
 25 A Right, that you've covered the course. At the

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1 end of the presentation, that's when you — you know,
2 you have to go through the presentation to get to the
3 certification.

4 Q Do you actually read the guidelines
5 themselves?

6 A I mean, not verbatim. Every year they're
7 pretty much the same, but, yeah, I do read them, I
8 mean.

9 Q And it's your understanding that IBM expects
10 you to adhere to the Business Conduct Guidelines?

11 A Yes.

12 MR. ROSSMAN: Mark that one, please.

13 (Defendant's Exhibit No. 8 was marked.)

14 BY MR. ROSSMAN:

15 Q I've just handed you a document that's been
16 labeled Exhibit 8. On the first page, it says, "IBM
17 Course Booklet." Is this something you've ever seen
18 before?

19 A Yes.

20 Q What is this?

21 A This is basically a printout of the course
22 that we take online.

23 Q The course related to the Business Conduct
24 Guidelines?

25 A Yes.

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1 Q Do you recall taking this actual course?

2 A Yes.

3 Q Is this the course you took this year?

4 MR. Langeland: Objection.

5 You can answer.

6 A (By the Witness) I mean, I will say it looks
7 like it. I mean, it changes every couple of years.

8 MR. ROSSMAN: Mark that one for me,
9 please.

10 (Defendant's Exhibit No. 9 was marked.)

11 BY MR. ROSSMAN:

12 Q I've just handed you a document labeled
13 Exhibit 9. It's a printout of IBM's Business Conduct
14 Guidelines, dated December 18, 2007.

15 So I take it, Exhibit 9 is the type of
16 Business Conduct Guidelines you would be certified on?

17 MR. Langeland: Objection.

18 You can answer.

19 A (By the Witness) Usually, it's the Web-based
20 Exhibit 8. I think we do both of these.

21 Q Both 8 and 9?

22 A Yes. I'm not sure which one is the one that
23 you send off. You know, at the end of them, you know,
24 you certify that you did it.

25 Q Would you turn to page 6 of Exhibit 9? I'm

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1 looking specifically at 3.1 on page 6, the section
2 labeled "Communication Channels." Are you there?

3 A Yes.

4 Q The first sentence of that paragraph reads,
5 "If you know of an unlawful or unethical situation, you
6 should immediately tell IBM whatever you know or have
7 heard about it. You could do it in one of several
8 ways."

9 Is it — do you understand that it's IBM's
10 expectation that you would report any unlawful or
11 unethical situations at work that you become aware of
12 to the company?

13 MR. Langeland: Objection. It's a
14 legal conclusion.

15 MR. ROSSMAN: Asking him what his own
16 understanding is?

17 MR. Langeland: I mean, as to what he's
18 got to report, whether there's been a
19 violation of the FLSA. That's for sure.

20 BY MR. ROSSMAN:

21 Q Is it your understanding that IBM expects you
22 to report any unlawful or unethical conduct at work
23 that you become aware of?

24 A Yes.

25 Q Would you please turn to page 13? I'm looking

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1 at section 3.6. Are you there?

2 A Yes.

3 Q The first sentence of 3.6 is a stand-alone
4 paragraph. It says, "You must record and report all
5 information honestly" — I'm sorry. "You must record
6 and report all information accurately and honestly."

7 Is it your understanding that IBM expects you
8 to maintain accurate and honest records?

9 A Yes.

10 MR. ROSSMAN: Mark that for me, please.

11 (Defendant's Exhibit No. 10 was marked.)

12 BY MR. ROSSMAN:

13 Q I've just handed you a document marked Exhibit
14 10. It's a document that's entitled, "Employee
15 Relations, Legal Issues, Recording Time
16 Worked/Compensatory Time."

17 The first sentence reads, "Nonexempt employees
18 must submit timecards that are complete, accurate and
19 timely." Is it your understanding that IBM expects you
20 to submit time cards that are complete, accurate and
21 timely?

22 A Yes.

23 Q Did you ever complain to anyone at IBM that
24 you believe you had not been paid for all hours worked?

25 A No.

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1 MR. LANGELAND: Objection.
 2 BY MR. ROSSMAN:
 3 Q So that's a no?
 4 A No. Yes; it's a no.
 5 Q Are you familiar with the claims system?
 6 A No.
 7 Q Do you believe you've been fully paid for any
 8 work you may have done after the end of your shift?
 9 MR. LANGELAND: Objection.
 10 A (By the Witness) Repeat the question.
 11 Q Do you believe you have been fully paid for
 12 any work you may have done after the end of your shift?
 13 MR. LANGELAND: Objection.
 14 A (By the Witness) I'm going to say they pay --
 15 one more time.
 16 Q Do you believe you have been fully paid for
 17 any work you may have done after the end of your
 18 scheduled shift?
 19 MR. LANGELAND: Objection.
 20 A (By the Witness) Yes.
 21 Q Yes, you believe you've been fully paid?
 22 A Yes.
 23 Q Now, earlier when you were talking about
 24 logging into the computer and logging into various
 25 tools, you described the time that you say that takes.

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1 What are you doing during that time?
 2 A Waiting.
 3 Q Do you read the paper or anything else?
 4 A No. I just wait, stare at the computer.
 5 MR. ROSSMAN: Can we go off the record
 6 for a second?
 7 THE VIDEOGRAPHER: Off video.
 8 (VIDEO CAMERA OFF.)
 9 (A recess was taken from 2:28 to 2:38 p.m.)
 10 (VIDEO CAMERA ON.)
 11 THE VIDEOGRAPHER: On video.
 12 BY MR. ROSSMAN:
 13 Q Now, other than any conversations you may have
 14 had with counsel, have you discussed this lawsuit with
 15 anyone?
 16 MR. LANGELAND: Objection.
 17 You can answer.
 18 A (By the Witness) I've pointed people to it.
 19 Q Who have you pointed to it?
 20 A Phil Craven, I mentioned it to him, Shelley
 21 Faith. Those are people recently.
 22 Q A couple dozen, you say?
 23 A No. Those are people recent that I've
 24 mentioned it to.
 25 Q Okay. So Phil and Shelley. Anyone else --

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1 A No.
 2 Q -- recently or not recently?
 3 A No.
 4 Q All right. Aside from those two, have you
 5 discussed the lawsuit with anyone else, again, not
 6 counting your counsel?
 7 MR. LANGELAND: Objection.
 8 Go ahead.
 9 A (By the Witness) I mean, other than my wife
 10 and -- I mentioned it to her.
 11 MR. LANGELAND: Objection.
 12 BY MR. ROSSMAN:
 13 Q What do you recall about the conversation or
 14 conversations you had with Phil Craven?
 15 A It was basically done via Instant Messenger.
 16 It was like here's the Web site, you know, you should
 17 send them your information so you can be involved, I
 18 mean.
 19 Q What was Mr. Craven's reaction?
 20 A He just thought it was cool.
 21 Q And it was Shelley -- what was Shelley's last
 22 name?
 23 A Faith.
 24 Q Faith. And what do you recall about the
 25 communication you had with Ms. Faith?

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1 A I just discussed the premise of the case, what
 2 it's about.
 3 Q Hat did you tell her the case was about?
 4 A That we're required to be in early but not get
 5 paid to be in early.
 6 Q And what was Ms. Faith's reaction?
 7 A She thought it was interesting.
 8 Q Did she say anything else?
 9 A That was about it. And I've discussed it
 10 originally with Jim Starkey.
 11 Q Okay. What do you recall about your
 12 communication with Mr. Starkey?
 13 A He's the one that pointed me to it.
 14 Q Pointed you to the Web site?
 15 A Yes. That was about the extent of it.
 16 Q Now, how many hours do you allege that you
 17 worked without pay in 2008?
 18 MR. LANGELAND: Objection. You're
 19 going to make him do a calculation?
 20 A (By the Witness) I mean, I -- I mean, I would
 21 have to figure out how many days I've been there so
 22 far.
 23 Q How would you --
 24 A I mean, every day, you would figure -- you
 25 would figure, let's say -- let's say average an hour a

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1 week.
 2 Q An hour a week, you say?
 3 A Yes.
 4 Q How do you get to an hour a week?
 5 A Just 15 -- 10, 15 minutes each day.
 6 Q How about in 2007?
 7 A I mean, it would be the same.
 8 Q Now, in your calculations, what would you do
 9 with days that you were late?
 10 A I mean, that's where I average like an hour a
 11 week versus -- I mean, some might be more. Some might
 12 be less. I mean, the only times late is if it's
 13 scheduled or, you know, a couple of minutes because you
 14 were in traffic. I mean, that doesn't happen very
 15 often.
 16 MR. ROSSMAN: I don't have any further
 17 questions.
 18 MR. Langeland: Okay. I have a few
 19 questions.
 20 EXAMINATION
 21 BY MR. Langeland:
 22 Q Turning your attention to Exhibit 3, how much
 23 overtime were you paid for preshift work in 2005?
 24 A Preshift is not recorded. We're not allowed
 25 to enter that information.

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1 Q So the amount of 2,551.14 that's included here
 2 for overtime in 2005 does not include anything for
 3 preshift overtime; is that correct?
 4 MR. ROSSMAN: Objection, leading.
 5 BY MR. Langeland:
 6 Q You can answer.
 7 A It's correct.
 8 Q Okay. How much time for preshift work is
 9 included in this 2005 overtime figure?
 10 MR. ROSSMAN: Objection.
 11 A (By the Witness) It's no time included.
 12 Q Okay. And how much time for preshift overtime
 13 is included in the 2006 figure?
 14 MR. ROSSMAN: Objection, leading,
 15 foundation.
 16 A (By the Witness) Nothing's included.
 17 Q Do you see the figure there that says 1,686.70
 18 for overtime for 2006?
 19 A Yes.
 20 Q How much of that is for preshift overtime?
 21 A None.
 22 MR. ROSSMAN: Objection, leading,
 23 foundation.
 24 BY MR. Langeland:
 25 Q For 2007 for the overtime figure, how much

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1 preshift overtime is included?
 2 MR. ROSSMAN: Objection, leading,
 3 foundation.
 4 A (By the Witness) None.
 5 Q For 2008, how much preshift overtime is
 6 included?
 7 MR. ROSSMAN: Same objections.
 8 A (By the Witness) None.
 9 Q Why didn't you include or why isn't there
 10 anything included for preshift overtime?
 11 A It's all based off the phone log-in. We're
 12 not allowed to log in, at the most, five minutes prior.
 13 So even if you were instructed to be there, you know,
 14 15 minutes early, you can't log in to track your hours.
 15 So they pay you based off the log-in on the phone.
 16 Q With regard to preshift overtime, what was
 17 management's expectation?
 18 MR. ROSSMAN: Objection.
 19 A (By the Witness) That it doesn't exist.
 20 Q And how did you know that?
 21 A You're not -- again, it's based off the phone
 22 log-in. So you can't -- you can't record those
 23 hours -- you can record the hours, but it's not going
 24 to match up with the phone. So they would disallow
 25 those hours.

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1 Q And what was the policy with regard to
 2 entering preshift overtime in eTOTALS?
 3 MR. ROSSMAN: Objection, foundation.
 4 MR. Langeland: Why? He wouldn't know
 5 what the policy is?
 6 MR. ROSSMAN: You're assuming there was
 7 a policy.
 8 BY MR. Langeland:
 9 Q Was there a policy with regard to entering
 10 preshift overtime in eTOTALS?
 11 A It's -- we don't enter it.
 12 Q Well, was there a policy?
 13 A Not like black-and-white policy.
 14 Q Okay.
 15 MR. ROSSMAN: I'm sorry. What did you
 16 say?
 17 THE WITNESS: It's not in -- it's not
 18 like in writing. It's we're told.
 19 Management tells you. Your team leads tell
 20 you. You don't enter that time.
 21 BY MR. Langeland:
 22 Q So who else followed the policy regarding
 23 preshift overtime?
 24 MR. ROSSMAN: Objection, foundation.
 25 A (By the Witness) I mean, it's covered.

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1 Everybody does it, all the coworkers. I mean,
 2 nobody – everybody's aware that it's not – the time's
 3 not entered.
 4 Q How do you know?
 5 A Just general conversation with coworkers, team
 6 leads' instructions, management instructions.
 7 Q Is there any practice with regard to whether
 8 you can enter preshift overtime in eTOTALS?
 9 A I don't understand.
 10 Q How is it commonly handled – how is preshift
 11 overtime commonly handled?
 12 MR. ROSSMAN: Objection, foundation.
 13 A (By the Witness) It's not handled because we
 14 don't do it. I mean, we're instructed not to enter
 15 that. So it's never handled, I guess.
 16 Q Did Mr. Lambousis ever tell you to input
 17 preshift time in eTOTALS?
 18 A No.
 19 Q Did Ms. Reidy every tell you to input preshift
 20 time in eTOTALS?
 21 A No.
 22 Q What about Mr. Ovesen?
 23 A No.
 24 Q Were you aware that IBM's policy to not pay
 25 for preshift work was unlawful activity?

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1 MR. ROSSMAN: Objection, foundation,
 2 assumes facts not in evidence.
 3 A (By the Witness) No.
 4 Q Have your records in eTOTALS been honest?
 5 A They have been honest in that they reflect the
 6 phone log-in.
 7 Q And what about the preshift overtime?
 8 A It's not in there.
 9 Q Why not?
 10 A Because you're not allowed to log in to show
 11 the time.
 12 Q Okay.
 13 A TOTALS is based on – is referenced to the
 14 phone log-in.
 15 Q Have your records in eTOTALS been complete?
 16 A They have been complete to show the same as
 17 the phone log-in.
 18 Q And why didn't you show the preshift time?
 19 A Because it's not – it's not – they're not
 20 able to log in on the phone. So it's not going to show
 21 up. It's basically if it doesn't show up there, it
 22 never happened unless it's scheduled on the schedule,
 23 you know, an hour early or something.
 24 MR. LANGE LAND: Okay. I don't have any
 25 other questions.

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1 MR. ROSSMAN: I might have a couple.
 2 FURTHER EXAMINATION
 3 BY MR. ROSSMAN:
 4 Q Now, when your attorney was asking you
 5 questions, I believe you stated that TOTALS is
 6 referenced to phone logs; is that correct?
 7 A Yes.
 8 Q What do you mean by that?
 9 A Meaning if you have an hour overtime, they're
 10 going to look at your phone log-in to see if you were
 11 actually there for that hour. That just keeps someone
 12 from saying they were working when they really were not
 13 working.
 14 Q How do you know that?
 15 A It's just a general assumption.
 16 Q That's your assumption?
 17 A Yes.
 18 Q Did anyone ever tell you that?
 19 A They have compared phone log-ins to eTOTALS.
 20 Q Who?
 21 A Manager.
 22 Q How do you know that?
 23 A They've discussed it with me.
 24 Q Who?
 25 A Juanita Carver has, and Jeff Jones has

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1 questioned a couple of times. You know, the question
 2 was you show you were here, you know, this many hours,
 3 but, you know, your eTOTALS says you were here this
 4 many hours, so how come there's a difference.
 5 Q When – you're saying Ms. Carver questioned
 6 your overtime?
 7 A Yes.
 8 Q When?
 9 A I don't know specifically. It was like one
 10 time.
 11 Q And what happened on that occasion?
 12 A I explained to her what the circumstances
 13 were, and that was the end of it.
 14 Q What were the circumstances?
 15 A It was that -- after logging out and getting
 16 ready to leave, I was asked to do some other things.
 17 They said don't worry about logging in, just go ahead
 18 and, you know, put it down on your TOTALS that you
 19 worked.
 20 Q And were you paid on that occasion?
 21 A Yes.
 22 Q Fully paid?
 23 A Yes.
 24 Q Now, you said Mr. Jones also questioned your
 25 overtime?

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1 A They've -- I mean, they've looked at it in
 2 comparing payrolls to phone logs.
 3 Q Mr. Jones questioned your overtime?
 4 A I mean, I wouldn't say he questioned the
 5 hours, but he did go over it with me.
 6 Q When was that?
 7 A It would have been like in 2006 when he was my
 8 manager.
 9 Q Was it more than one occasion or one occasion?
 10 A Just once.
 11 Q And what was the circumstance?
 12 A Just a manager review, employee review.
 13 Q So it was during your review?
 14 A Yes.
 15 Q And what did Mr. Jones say during your review?
 16 A He would just look at -- I mean, I don't know
 17 exact conversation. It was just seeing, I guess,
 18 how -- I think it was in reference to, you know, if
 19 you're there, your attendance.
 20 Q He was questioning your attendance?
 21 A He was just -- not questioning it, but just
 22 pointed it out.
 23 Q I don't understand. What was he saying about
 24 your attendance?
 25 A I mean, they can see, you know, based on the

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1 phone log-in if you've been late, things like that, and
 2 so he was -- basically, it was more of a compliment,
 3 hey, you know, you've -- you know, for this amount of
 4 -- for this time, at this point in the review, you
 5 know, you've only shown, you know, two, three minutes
 6 late for the entire time.
 7 Q So you had previously had a problem with
 8 tardiness?
 9 A There's never been a problem, no.
 10 Q You improved your punctuality, and you were
 11 getting a compliment on that?
 12 A It wasn't an improvement, no. It was based --
 13 it was just that he's happy that I'm coming in on time
 14 and not being late all the time.
 15 Q Okay. That conversation didn't have anything
 16 to do with time reporting, did it?
 17 A It wasn't directly to payroll, no.
 18 Q Now, your counsel asked you several questions
 19 about what he was terming "preshift overtime." What
 20 work are you referencing when you use the term
 21 "preshift overtime"?
 22 A That's the getting the tools and everything up
 23 and running.
 24 Q And I believe you mentioned in response to
 25 your counsel's questions something about management

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1 telling you not to enter preshift time?
 2 A Yes.
 3 Q Now, the instances in which you claim that
 4 management told you that, are those the ones we covered
 5 earlier during your testimony?
 6 MR. LANGELAND: Objection.
 7 If you remember them.
 8 A (By the Witness) Not really. I don't
 9 remember.
 10 Q You don't remember. Well, then we can ask
 11 again, I guess, if you want. When were you told don't
 12 enter preshift time?
 13 A I mean, it's all the time. It's reiterated,
 14 you know, be here -- be here early, don't log into your
 15 phone until right before your shift starts but be ready
 16 when your shift starts.
 17 Q Who told you not to enter preshift time?
 18 A George Lambousis, Juanita Carver, Jeff Jones,
 19 the team leads, Jay Stewart, Fred Nutter, Pete Debly
 20 has told us that.
 21 Q When did Lambousis tell you not to enter
 22 preshift time? Was that in his e-mail, Exhibit 5 that
 23 we looked at earlier?
 24 A It's --
 25 MR. LANGELAND: Objection, leading.

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1 A (By the Witness) That's one of them. I mean,
 2 that's inferred in that one. There's been other
 3 conversations, other e-mails to just reiterate, you
 4 know, telling you don't log in until, you know, no more
 5 than five minutes prior to your shift.
 6 Q Okay. I'm not -- okay. I want to know when
 7 he told you not to enter preshift time.
 8 MR. LANGELAND: Objection. I think he
 9 answered that.
 10 A (By the Witness) When they say don't log into
 11 your phone --
 12 Q Okay.
 13 A -- because your phone log-in is your official
 14 time card.
 15 Q If your phone log-in is your official time
 16 card, why do you need to enter time into eTOTALS?
 17 A That's the payroll tracking.
 18 Q Did anyone ever tell you that your phone
 19 log-in was your official time card?
 20 A Not in those specific words.
 21 Q Nobody ever told you that, did they?
 22 MR. LANGELAND: Objection.
 23 A (By the Witness) Not in those specific words.
 24 Q What words did they use?
 25 A I mean, it's inferred. Your time that you're

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1 there is recorded. So you have to use the phone. So
 2 that's where they look for the hours. If I claim 30
 3 minutes overtime, my phone needs to show 30 minutes
 4 overtime unless it's scheduled that I'm somewhere else,
 5 not available to log into the phone.
 6 Q Who is Jay Stewart?
 7 A He's a former team lead.
 8 Q When was he your team lead?
 9 A He's not officially -- was never official my
 10 team lead. He's one of the team leads.
 11 Q He was never your team lead?
 12 A Not officially. If a team lead -- you know,
 13 there's nine team leads. If any of the team leads tell
 14 you to do something, it's no different than if your own
 15 team lead tells you to do something.
 16 Q When did Mr. Stewart tell you not to record
 17 preshift work?
 18 A It was probably like in 2006.
 19 Q And what do you recall about that instance?
 20 A It was a few minutes after start, and he had
 21 mentioned -- he sent me a Same Time saying, well, how
 22 come you're not available. I replied back saying,
 23 because I'm, you know, getting my applications and
 24 everything running. He said I should do that prior to
 25 shift time.

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1 Q Did he say anything one way or another about
 2 recording your time?
 3 A It was not specific to not recording the time,
 4 no.
 5 Q Did Mr. Lambousis ever make any statement to
 6 you specifically about recording your time?
 7 A No.
 8 Q Did Ms. Carver ever make any statement to you
 9 specifically about recording preshift time?
 10 MR. LANGELAND: Objection.
 11 A (By the Witness) The statements from her is
 12 log in no more than five minutes to start time.
 13 Q How about Mr. Jones?
 14 A Same thing.
 15 Q How about Mr. Nutter?
 16 A Don't log in till five minutes prior.
 17 Q And by "log in," they mean it was don't log
 18 into the phone?
 19 A Yes.
 20 MR. ROSSMAN: I have no further
 21 questions.
 22 MR. LANGELAND: I have no further
 23 questions.
 24 THE VIDEOGRAPHER: Off video.
 25 (Deposition concluded at 2:58 p.m.)

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CERTIFICATE

1
 2 I hereby certify that the foregoing
 3 transcript was reported, as stated in the caption; that
 4 the witness was duly sworn and elected to reserve
 5 signature in this matter; that the colloquies, questions
 6 and answers were reduced to typewriting under my
 7 direction; and that the foregoing pages 1 through 103
 8 represent a true, correct, and complete record of the
 9 evidence given.
 10 The above certification is expressly
 11 withdrawn and denied upon the disassembly or
 12 photocopying of the foregoing transcript, unless said
 13 disassembly or photocopying is done under the auspices
 14 of Hundt Reporting, LLC, and the signature and original
 15 seal is attached thereto.
 16 I further certify that I am not a relative or
 17 employee or attorney of any party, nor am I in any way
 18 interested in the result of said case.
 19 Pursuant to Article 8B of the Rules and
 20 Regulations of the Board of Court Reporting of the
 21 Judicial Council of Georgia, I make the following
 22 disclosure: That I am a Georgia Certified Court
 23 Reporter, here as an independent contractor for Hundt
 24 Reporting, LLC; that I was contacted by the offices of
 25 Hundt Reporting, LLC to provide court reporting services
 for this deposition; that I will not be taking this
 deposition under any contract prohibited by O.C.G.A.
 15-14-37 (a) or (b); that I have no written contract to
 provide reporting services with any party to the case,
 any counsel in the case, or any reporter or reporting
 agency from whom a referral might have been made to
 cover this deposition; and that I will charge my usual
 and customary rates to all parties in the case.
 This, the 19th day of November, 2008.

Chama S. Perloe, CCR-A-457.

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ERRATA SHEET

1 Pursuant to Rule 30(e) of the Federal Rules of
 2 Civil Procedure and/or OCGA 9-11(30)(e), any changes in
 3 form or substance which you desire to make to your
 4 deposition testimony shall be entered upon the
 5 deposition with a statement of the reasons given for
 6 making them.
 7 To assist you in making any such corrections,
 8 please use the form below. If supplemental or
 9 additional pages are necessary, please furnish same and
 10 attach them to this errata sheet.
 11 - - -
 12 I, the undersigned, RAYMOND J. LILES, do hereby
 13 certify that I have read the foregoing deposition and
 14 that said transcript is true and accurate, with the
 15 exception of the following changes noted below, if any:
 16 Page _____ Line _____ should read: _____
 17 Reason: _____
 18 Page _____ Line _____ should read: _____
 19 Reason: _____
 20 Page _____ Line _____ should read: _____
 21 Reason: _____
 22 Page _____ Line _____ should read: _____
 23 Reason: _____
 24 Page _____ Line _____ should read: _____
 25 Reason: _____

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1 Page____ Line____ should read:_____
2 _____
3 Reason:_____
4 _____
5 Page____ Line____ should read:_____
6 _____
7 Reason:_____
8 _____
9 Page____ Line____ should read:_____
10 _____
11 Reason:_____
12 _____
13 Page____ Line____ should read:_____
14 _____
15 Reason:_____
16 _____
17 Page____ Line____ should read:_____
18 _____
19 Reason:_____
20 _____
21 _____

22 _____
23 RAYMOND J. LILES,
24 Sworn to and subscribed before me,
25 _____, Notary Public.

26 This _____ day of _____ 2008.

27 My commission expires: